



THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
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September 25, 2024

***Via ECF***

The Honorable Jennifer L. Rochon  
United States District Court for the  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**Re: Khanimova, et al. v. Banks, et al., No. 23 CV 5800 (JLR)**

Dear Judge Rochon:

I am an Assistant Corporation Counsel in the office of the Acting Corporation Counsel of the City of New York, Muriel Goode-Trufant, attorney for the Defendants in the above-referenced action. Together with Plaintiffs' counsel, I write to provide the Court with a status update in this matter and to jointly request a stay of the briefing schedule on the parties' motions for summary judgment.

It has come to the parties' attention that an administrative decision was recently issued in this matter that will likely moot this action upon implementation.

As the Court will recall, this action arose out of Plaintiffs' asserted entitlement to interim funding of the Student D.N.'s educational program under the so-called 'pendency' or 'stay-put' provision of the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1415(j). Plaintiffs asserted that this entitlement extended to interim funding for the Student's transportation services for the relevant school year, pursuant to a preexisting administrative order. In sum and substance, Defendants' position was that that order was properly read to oblige Defendants to only fund transportation for the days on which the Student was actually provided roundtrip transportation to and from school. Plaintiffs contended that Defendants were required to fund the cost of transportation, irrespective of whether on any given day the Student was actually physically transported to school. This dispute is the sole remaining issue in this matter.

While this dispute was teed up in this Court, however, the parties proceeded beyond arguments about interim funding and to the merits in the underlying administrative proceeding. Pretermitted a discussion of the various holdings, a Findings of Fact and Decision was issued by an Impartial Hearing Officer that Plaintiffs then administratively appealed to the New York State Education Department's Office of State Review. There, a State Review Officer ("SRO") finally concluded, in pertinent part, that the Defendants must fund the Student's transportation costs, irrespective of whether the Student was actually transported on any given day, for the period during which she attended the International Institute of the Brain ("iBRAIN"), namely, July through September 2023.

I have been told by my colleagues at the New York City Department of Education that the SRO's decision will be implemented. As such, the parties have conferred and believe that the remaining claims in this action are or will shortly be mooted. In light of this development, the parties jointly request a stay, until November 20, 2024, of the summary judgment briefing schedule in this action so that the administrative processes for implementation of the SRO's decision can proceed. The parties also respectfully propose that they submit a status letter on November 15, 2024, informing the Court whether the transportation funding for the relevant period has been provided and whether this action has been mooted, along with any additional pertinent information.

The parties thank the Court for its consideration of this application.

Respectfully yours,

/s/ David S. Thayer


David S. Thayer

cc: ***Via ECF***  
All counsel of record

The parties' joint request for a stay of this action is GRANTED. The parties shall submit a joint status letter no later than November 15, 2024 with proposed next steps. The Clerk of Court is respectfully directed to mark this action as STAYED.

Dated: September 26, 2024  
New York, New York

**SO ORDERED.**

  
**JENNIFER L. ROCHON**  
United States District Judge